2. The Act's resale requirements do not prevent a carrier from discontinuing and grandfathering its existing services or require resale of services not offered to the public. (NPRM ¶ 176)

It is well-recognized in this country's tradition of carrier-initiated tariffs that ILEC services and pricing plans will be introduced and withdrawn from time to time, even against the wishes of a reseller. Given that the Act only requires resale of services actually offered to the public, withdrawn offerings are excluded from the resale obligation because they are no longer "offered." Moreover, it is typical that a carrier will withdraw an offering to the public in stages, where future customers will not receive service, but existing customers are given a reasonable period of time to find alternative services. Customers should not be disadvantaged by requiring a service to be withdrawn on a "flash-cut" basis. Abuses, of course, should not be tolerated, and reasonable transition periods can be established to avoid "grandfathering" that would avoid the resale obligations contained in the Act.

Similarly, resale does not require that ILECs provide resellers with capabilities or functionalities of a service that are not offered on a stand-alone basis to retail customers. (AT&T at 80-81; MCI at 84) To hold otherwise would transform the resale right into one more akin to network element unbundling, which the statute clearly intended to be treated under Section 251(c)(3), not (c)(4). More moderate interconnectors, such as NCTA at 57-58; TW Comm at 73-74, agree with this position. Existing Commission policy, which provides useful guidance here, has never required carriers to offer parts of services for resale.

3. Section 252(d)(3) does not require that below cost services must be offered at further-reduced wholesale rates. (NPRM ¶¶ 178-180)

Several parties argue that the resale obligation attaches to services ILECs provide to end user customers below cost. (AT&T at 83; CompTel at 101-02) Services that are offered below the carrier's cost are not offered "at retail" to customers, and, therefore, wholesale rates at a further discount from the retail prices are not required. In order to qualify as retail rates, the service must earn a profit. Requiring wholesale rates for below-cost services would encourage uneconomic entry, disadvantage ILEC ratepayers that are subsidizing such rates, and create market distortions that would not serve the pro-competitive purposes of the Act. (*See, e.g.*, Florida at 37) Accordingly, the FCC must at least permit a transition period in which ILECs and states are allowed to rebalance local rates in order to eliminate below cost rates before imposing wholesale resale obligations. Without this grace period, the FCC would be mandating an artificial subsidy that encourages uneconomic entry by competitors.[92]

4. Promotional offerings need not be offered for resale.

The FCC also should declare that special promotional offerings need not be offered for resale, contrary to the contention of some parties [93] This limitation on resale is

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[92] To the extent that some commenters, such as AT&T at 80 n.119, argue that resale of below-cost services should be required, their concern that continued sale of the below-cost service will undermine competition for potentially higher priced network elements can be resolved by prompt rate rebalancing.

[93] MCI at 90-91. MCI argues that below-cost retail rates will not injure ILECs because they will suffer no loss of net revenues by allowing resellers to resell these rates. This argument ignores, however, that other ILEC customers will be harmed because presumably they are funding the below cost portion of the rates.

eminently reasonable. Promotional offerings are in the public interest, are limited in duration and scope,[94] and are in the nature of marketing expenses, not permanent discounted offerings. Because these promotions are short-lived, they will not create permanent competitive price squeezes as argued by some parties. (*See, e.g.*, DOJ at 54-55) Requiring resale would harm consumers and competition because ILECs would have to completely avoid promotional offerings.[95]

5. Although establishment of wholesale rates should be left to negotiation and state decision, the FCC should provide general guidance on acceptable safe harbors. (NPRM ¶ 181)

Section 252(d)(3) provides that wholesale prices be established on the basis of the retail price, less any costs that will be avoided. As TCG and MFS indicate (TCG at 57; MFS at 73-74), only actually avoided, not hypothetically avoidable, costs must be subtracted from retail prices.[96] For this reason, the proposal to use entire USOA accounts (*See* CompTel at 96-97; LDDS at 85-86) which contain some marketing and billing expenses as the basis for determining costs should be rejected, because these accounts are broad enough

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[94] Policy and Rules Concerning Rates for Dominant Carriers, 6 FCC Rcd 665, 670-671 (1991), *rev'd. and remanded*, AT&T v. FCC, 974 F.2d 1351 (D.C. Cir. 1992), *vacated* 8 FCC Rcd 3715 (1993), *further proceedings*, 10 FCC Rcd 7854 (1995).

[95] Resale of offerings subject to volume and term discounts should be limited to those classes of customers that meet the volume and term limitations. This restriction falls within the permissible class of customer restrictions contained in Section 251(c)(4)(B).

[96] Therefore, states may not increase discounts for any reason other than avoided costs, including quality differences or increasing the viability of competition, contrary to the argument advanced by AT&T at 85 n.132, 86.

that they contain expenses that cannot be avoided when reselling. Furthermore, because common costs continue to be incurred even when resellers account for some portion of the units of output for that service. Consequently, they are not "avoided" and cannot be excluded from the wholesale price.[97]

In addition, resale can require ILECs to incur additional costs that are not incurred when an ILEC sells at retail.[98] Therefore, the term "avoided" costs must be interpreted to mean "net avoided" costs. More moderate interconnectors agree with this interpretation of the statute. (TCG at 57; TW Comm at 77-80)

Finally, MCI's study that purports to show appropriate wholesale rates is not useful in establishing minimum national standards for resale and should be rejected. The MCI study allocates entire USOA accounts which contain only *some* marketing and billing expense. It incorrectly assumes common and joint costs that will continue to be incurred are somehow avoided. It excludes the additional costs caused when a LEC sells at retail. It wrongly assumes that capital costs (return taxes and depreciation) for the resold service investment are reduced in the same proportion as avoided retail costs. Finally, it erroneously excludes costs incurred in providing the resold service, such as the costs of directory assistance call allowances, directory listings, and telephone directories [99]

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[97] Sprint identified a workable model of how to determine avoided costs in Tennessee. (Sprint, App. C)

[98] *See, e.g.*, NCTA, Owen Aff't at 29; TW Comm. at 77-80; USTA at 73.

[99] The MCI study is basically a slight modification of the AT&T/MCI resale study rejected by California in Decision 96-03-020 (March 13, 1996).

States are well positioned to quickly evaluate what wholesale prices should be if private negotiations fail. Indeed, the California PUC is currently evaluating the appropriate level of wholesale prices for California retail services.[100] We believe that the Commission resale safe harbors can include the California PUC program as one acceptable outcome.

H. Reciprocal Compensation Can Flow Only From Negotiated Agreements. (NPRM ¶¶ 226-238)

For transport and termination of local calls, the 1996 Act anticipates that reciprocal compensation will be determined by the parties. In contrast to Section 252(d)(1) (interconnection and network element charges) and 252(d)(3) (wholesale prices), Section 252(d)(2) does not provide that a state shall "determine" reciprocal compensation. Rather, Section 252(d)(2) requires a state to assure that agreements "provide for the mutual and reciprocal recovery . . . of costs" associated with transport and termination; requires that the "terms and conditions determine such costs on the basis of a reasonable approximation of the additional costs of terminating such calls;" and forbids "any rate regulation proceeding to establish with particularity the additional costs of transporting or terminating calls." Section 252(d)(2)(B)(i) does allow carriers to waive mutual recovery (such as bill-and-keep), but it does not allow regulators to mandate bill-and-keep, which would effectively read the "additional costs" standard out of the Act.

For all of these reasons, the Commission cannot "requir[e] that reciprocal compensation rates be based upon a reasonable estimate of the long-run incremental cost, to

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[100] California at 38-39. At least one interconnector cites to the *California Resale* decision as an example where states have ordered too large a discount for wholesale services. NCTA, Owen Aff't at 4-5.

a provider using the most efficient available technology, of terminating traffic received from other providers on a LATA-wide basis." (MFS at 80) Section 252(d)(2) expressly envisions that parties may voluntarily reach arrangements to waive or offset mutual recovery.[101] "Transport and termination" also does not extend to all intraLATA calls; such a requirement would read access charges out of the Act, too

Contrary to what DOJ asserts, "bill and keep" may not be mandated. (DOJ at 33-34) As DOJ admits, "[b]ill and keep arrangements effectively price termination at zero." (*Id.* at 34) While DOJ asserts that "at least during off peak times, the incremental cost of terminating traffic on another network is close to zero" that is just another way of saying that at peak times the cost is *not* close to zero. Bill and keep thus fails the "reasonable approximation of the additional costs" test of Section 252(d)(2).

[101] While California did find that bill and keep was a preferred outcome on an interim basis, it agreed to relook at this issue. California Decision 95-07-54, at 38-39, App. A at 11 (July 24, 1995).

III. CONCLUSION

For the foregoing reasons, the Commission should adopt a safe harbor or preferred outcome approach. The FCC should permit a number of alternative interconnection programs to be negotiated by parties and approved by state PUCs instead of mandating an inflexible national policy that will produce anticompetitive results.

Respectfully submitted,

Marlin D. Ard
Randall E. Cape
John W. Bogy
140 New Montgomery Street
Room 1530A, 15th Floor
San Francisco, CA 94105
(415) 542-7634

Margaret E. Garber
1275 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
(202) 383-6472

PACIFIC TELESIS GROUP

R. Michael Senkowski
Jeffrey S. Linder
Gregory J. Vogt

WILEY, REIN & FIELDING*
1776 K Street, N.W.
Washington, D.C. 20006

Its Attorneys

May 30, 1996

* For conflict reasons, Wiley, Rein & Fielding did not participate in advising PTG or drafting its response to Sections II.F.2. and H

PACIFIC TELESIS GROUP

TABLE OF APPENDICES

PACIFIC TELESIS GROUP

APPENDIX A

PROPOSED FCC RULES AND IMPLEMENTING GUIDELINES FOR SECTION 251 INTERCONNECTION REQUIREMENTS

PROPOSED FCC RULES AND IMPLEMENTING GUIDELINES FOR SECTION 251 INTERCONNECTION REQUIREMENTS

In order to assist the Commission in adopting rules and guidelines for the implementation of Section 251 interconnection requirements, PTG has set forth in this appendix the following information:

- The draft text of proposed FCC interconnection rules based upon the statutory requirements of the Act and California Public Utility Commission rules for implementing its "open all markets" program to promote local exchange competition.

- Proposed safe harbors or preferred outcomes that provide requesting carriers, state public utility commissions and local exchange carriers guidance on compliance with the FCC's interconnection rules.

- Current California Public Utility Commission rules and policies compared with the Act's requirements that would be deemed to fall within the scope of the FCC's acceptable safe harbors or preferred outcomes.

The adoption of the proposed rules and guidelines for the implementation of Section 251 interconnection requirements would provide stability and certainty for all concerned while refraining from prejudging or preempting other potentially acceptable outcomes arising in negotiations or in state public utility commission deliberations. This balance approach would address the legitimate concerns of CLECs, LECs and PUCs consistent with Congressional intent.

Part X: INTERCONNECTION

Sec. _____: Compliance with Interconnection Requirements.

In order to provide guidance for compliance with the interconnection requirements of this Part, the Commission shall adopt and periodically update a list of acceptable or preferred outcomes for meeting the obligations imposed upon local exchange carriers and incumbent local exchange carriers.

Sec. _____ [251(b)]: Interconnection Obligations of Local Exchange Carriers.

Upon bona fide request of a telecommunications carrier or other person, each local exchange carrier has the following duties.

[The Conference Report provides that "the duties imposed under new section 251(b) make sense only in the context of a specific request from another telecommunications carrier or any other person who actually seeks to connect with or provide services using the LEC's network."]

(a) Resale. Local exchange carriers may not unreasonably restrict or impose discriminatory conditions on resale of their telecommunications services. It shall not be unreasonable for a carrier to restrict resale to the same class of service.

[Tracks language of statute and California initial rules for local competition, Rule 4(F)(6).]

(b) Number portability. Local exchange carriers shall provide number portability in accordance with the Commission's Report and Order in CC Docket No. 95-116, provided that, pending implementation of a technically feasible permanent number portability solution, a State may require interim number portability through Remote Call Forwarding, Direct Inward Dialing, or other means that provide as little impairment of functioning, quality, reliability, and convenience as possible.

[Tracks language of statute (including 271(c)(2)(B)(xi)), recognizes FCC intent to adopt rules in May, incorporates California Rule 6.]

(c) Dialing parity. Local exchange carriers shall be interconnected so that customers of any local exchange carrier can seamlessly receive calls that originate on another local exchange carrier's network and place

calls that terminate on another local exchange carrier's network without dialing extra digits. Local exchange carriers shall permit nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listings, under just and reasonable charges, terms, and conditions permitted by the States, with dialing delays that comply with industry standards.

[Tracks statute and incorporates California Rule 7(A).]

(d) Access to rights-of-way. Local exchange carriers shall mutually negotiate with competing providers of telecommunications services the rates, terms, and conditions for access to poles, ducts, conduits, and rights-of-way, consistent with Section 224 of the Communications Act, as amended.

[Tracks the statute and California Rule 12. The FCC will adopt regulations under Section 224, which eventually may require modification of the 251(b)(4) rule.]

(e) Reciprocal compensation. Local exchange carriers shall negotiate reciprocal compensation arrangements for the transport and termination of telecommunications. The terms and conditions of such arrangements shall provide for mutual and reciprocal recovery by each carrier of costs associated with the transport and termination on each carrier's network facilities of calls that originate on the network facilities of the other carrier, with costs determined on the basis of the reasonable approximation of the additional costs of terminating such calls. Costs shall be approximated using a method approved or permitted by the relevant State commission.

[Combines 251(b)(5) and 252(d)(2), as required by 271(c)(2)(B)(i).]

Sec. _____ [251(c)]: Additional Obligations of Incumbent Local Exchange Carriers.

(a) In addition to the duties contained in Section ___ of the Rules, each incumbent local exchange has the duties listed below; provided that an incumbent local exchange carrier and a telecommunications carrier requesting interconnection may negotiate an interconnection agreement without regard to the duties set forth below and in Section ___ of the Rules.

[Under Section 252(a)(1), voluntary agreements need not comply with all the requirements of 251(b) and (c). Of course, 271(c)(2) does require such compliance to get interLATA authority.]

(b) Good faith negotiations. An incumbent LEC and any telecommunications carrier requesting interconnection shall mutually negotiate an interconnection agreement in good faith. The refusal of either party to participate further in negotiations, to reasonably attempt to conclude negotiations within the timeframes specified in the statute, to cooperate with the State commission in carrying out its function as an arbitrator, or to continue to negotiate in good faith in the presence, or with the assistance, of the State commission shall be considered a failure to negotiate in good faith.

[Combines 251(c)(1) and 252(b)(5) and expressly provides that any unreasonable attempt to delay conclusion of the negotiations is a violation of the good faith requirement.]

(c) Interconnection.

(1) An incumbent local exchange carrier shall provide interconnection for the transmission and routing of telephone exchange service and exchange access at any technically feasible point within the carrier's network. For purposes of this rule, interconnection at an end office, a tandem switch, or any other point where the carrier provides interconnection shall be presumed technically feasible. An incumbent LEC and a requesting telecommunications carrier may negotiate additional or different mutually acceptable points of interconnection.

(2) The rates, terms, and conditions for interconnection shall be just, reasonable, and non-discriminatory. Rates shall be presumed to satisfy this requirement where a State commission

finds they are based on cost, include a reasonable profit, and are non-discriminatory. States may not utilize rate-of-return or other rate-based mechanisms to ascertain cost, but may utilize any other method that permits the incumbent carrier to recover the costs (including a reasonable profit) of providing the interconnection.

(3) The interconnection provided by an incumbent local exchange carrier to a requesting telecommunications carrier shall be at least equal in quality to that provided by the incumbent local exchange carrier to itself, any subsidiary, affiliate, or any other party to which the carrier provides interconnection.

[Tracks 251(c)(2) and 252(d)(1), while preserving State flexibility.]

(d) Unbundled access.

(1) An incumbent local exchange carrier shall provide, to any requesting telecommunications carrier for the provision of a telecommunications service, nondiscriminatory access to network elements on an unbundled basis at any technically feasible point, and shall allow the requesting carrier to combine such elements in order to provide a telecommunications service. For purposes of this subsection, "network elements" means local subscriber loops, local transport, and local switching (ports); other network elements that the carrier makes available on an unbundled basis; and such other elements that the Commission determines should be made available on an unbundled basis at a technically feasible point; provided that a State may determine that access to other unbundled network elements should be made available at a technically feasible point, where consistent with Section 251(d)(2) and (3) of the Communications Act.

(2) If an incumbent local exchange carrier asserts that a particular network element is proprietary, unbundling shall not be required unless this Commission finds such unbundling is necessary and that failure to provide access to the element would impair the ability of the requesting telecommunications carrier to provide the services it seeks to offer.

(3) The rates, terms, and conditions for unbundled network elements shall be just, reasonable, and non-discriminatory.

Rates shall be presumed to satisfy this requirement where a State commission finds they are based on cost, include a reasonable profit, and are non-discriminatory. States may not utilize rate-of-return or other rate-based mechanisms to ascertain cost, but may utilize any other method that permits the incumbent carrier to recover the costs (including a reasonable profit) of providing the interconnection.

[Combines 251(c)(3), 251(d)(1), (2), and (3), and attempts to clarify elements of the competitive checklist. Provides that States may determine when additional unbundling is warranted (as California has done).]

(e) Resale.

(1) An incumbent local exchange carrier shall offer for resale at wholesale rates any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers. A State commission shall determine wholesale rates on the basis of retail rates charged to subscribers for the requested telecommunications service, excluding the portion thereof attributable to any marketing, billing, collection, and other costs that will be avoided by the local exchange carrier but including the additional costs of offering the wholesale service. For purposes of this section, services that are provided at retail do not include unbundled network elements pursuant to Section ___ of the Rules.

(2) An incumbent local exchange carrier shall not prohibit, and not impose unreasonable or discriminatory conditions or limitations on, the resale of any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers, except that a State commission may prohibit a reseller that obtains at wholesale rates a telecommunications service that is available at retail only to a category of subscribers from offering such service to a different category of subscribers.

[Combines 251(c)(4) and 252(d)(3). Makes explicit that services provided at retail to subscribers do not include unbundled network elements. Also provides that states shall have responsibility for resale rate determinations.]

(f) Notice of changes. An incumbent local exchange carrier shall provide reasonable public notice of changes in the information necessary for the transmission and routing of service using its facilities or network, as well as of any other changes that would affect the interoperability of those facilities and networks.

[Reflects 251(c)(5). One alternative would be a bright line disclosure date, as in the Computer III network disclosure rules. However, any fixed date is likely to be either too short or too long for many of the changes that could fall within this section. Another alternative, at least for changes that affect transmission and routing, would be to require that notice be provided in accordance with standard industry practice (e.g., publication of new NPA/NXXs in the LERG).]

(g) Collocation.

(1) An incumbent local exchange carrier shall provide physical collocation at its premises of equipment necessary for interconnection or access to unbundled network elements, at just, reasonable, and nondiscriminatory rates, terms, and conditions. Rates shall be presumed to satisfy this requirement where a State commission finds they are based on cost, include a reasonable profit, and are non-discriminatory. States may not utilize rate-of-return or other rate-based mechanisms to ascertain cost, but may utilize any other method that permits the incumbent carrier to recover the costs (including a reasonable profit) of providing the collocation.

(2) Notwithstanding paragraph (1), the carrier may provide virtual collocation if it demonstrates to the relevant State commission that physical collocation is not practical for technical reasons or because of space limitations.

(3) For purposes of this rule, the carrier's premises do not include space owned or leased by the carrier that is not occupied by equipment used by the carrier in the provision of telecommunications services.

[The Act does not specify the cost standard for collocation, but it should be considered a part of interconnection. The second sentence

prevents requests for collocation in, e.g., space used by the local exchange carrier for marketing. legal, or administrative personnel.]

GUIDELINES FOR SAFE HARBORS OR PREFERRED OUTCOMES THAT MEET SECTION 251 REQUIREMENTS

In its reply comments PTG proposed that the Commission adopt the following safe harbors:

Good Faith Negotiations

A CLEC would first submit a bona fide request containing a certification that it intends to use the requested interconnection or unbundled element in the provision of a competitive exchange or exchange access service; a full description of the functionality requested and the need for the network element; and a commitment to pay the reasonable costs of implementing the request. In the negotiating process technical feasibility, price, and other factors would be evaluated and resolved.

Interconnection

An interconnection agreement satisfies Section 251, as well as Section 271(c)(2)(B)(i), if it provides interconnection upon request at (1) tandem and/or end office switches, (2) at any other point where the RBOC currently makes interconnection available, and (3) there is a publicly disclosed, non-discriminatory process for considering bona fide requests from interconnecting parties for interconnection at other technically feasible points within a reasonable time.

Unbundled Access

Access to unbundled network elements is required under Section 251(d)(2) where (1) the requested access relates to a facility or equipment used in the provision of a telecommunications service under Section 153(45) of the Act, (2) it is technically feasible for the ILEC to provide the unbundled element, (3) where ILEC proprietary interests are at issue, the requesting party demonstrates access is necessary, (4) where such proprietary interests are not at issue, the requesting carrier demonstrates that the lack of access would impair its ability to provide service; and (5) the ILEC receives full cost compensation.

Network elements should include at a minimum (1) loop, (2) local switching, (3) dedicated and common transport, (4) tandem/transit switching, (5) SS7 links, and (6) any

other mutually negotiated elements. Operator services, switched access services, directory assistance and operational support services are not network elements.

Resale

Section 251(c)(4) requires generally that LEC services be made available for resale and only permits limitations and conditions on resale, so long as they are not "unreasonable and discriminatory."

- Withdrawn offerings are excluded from the resale obligation because they are no longer "offered."
- Resale does not require that ILECs provide resellers with capabilities or functionalities of a service that is not offered on a stand-alone basis to retail customers.
- Services that are offered below the carrier's cost are not offered "at retail" to customers, and, therefore, are not required to be further discounted.
- Special promotional offerings should not have to be offered for resale.
- Resale of offerings subject to volume and term discounts should be limited to those classes of customers that meet the volume and term limitations.
- Because common costs continue to be incurred even when resellers account for some portion of the units of output for that service, they are not "avoided" and therefore, cannot be excluded from the wholesale price.
- The term "avoided" costs must be interpreted to mean "net avoided" costs.

Collocation

The FCC's original collocation rules constitute an appropriate safe harbor.

- Tariffs and averaged rates are inappropriate under the structure of the Act.
- Collocation cannot arbitrarily extend to all ILEC buildings and structures.

- Interconnectors should not have the same right as LECs to collocate enhanced services equipment.

- Collocation cannot be required for purposes other than interconnection or access by the collocator's network to the LEC's network.

- Reasonable limits can be placed on the amount of space provided to each collocator to ensure efficient use of space, avoid warehousing, and protect competition.

- Preserving space for reasonably anticipated ILEC growth and future planning is not improper warehousing.

- Cages and other security measures are essential to protect all interconnectors and end users from risks posed by unrestricted access to our and everyone else's equipment.

- Section 251(c)(6) does not require physical collocation where it is not practical and there is no basis for shifting the CLEC's costs to the ILEC by requiring the ILEC to extend its network to meet the CLEC at its preferred point of presence.

Pricing

Pricing rules should facilitate negotiations, not dictate outcomes, and they should serve as a benchmark against which to test failed negotiations. Pricing consistent with the following criteria will be deemed consistent with Section 251 of the Act.

- Use of forward-looking incremental costs as determined by the states; a national model with the aim of prescribing "national prices" is wrong and unworkable;

- TSLRIC serves as a floor for pricing;

- Access charge rates serve as a price ceiling;

- These ceiling and floor standards become a benchmark against which to test reasonable prices;

- Any state PUC that adopts cost and pricing methodologies should ensure recovery of joint, common and embedded costs along with a reasonable profit on a competitively neutral basis.

Reciprocal Compensation

Reciprocal compensation should be based on negotiations; PUC arbitration, if necessary, should ensure that reciprocal compensation allow recovery of the additional cost of transmitting local traffic on LEC and CLEC networks. The Commission cannot require that reciprocal compensation rates be based upon a reasonable estimate of the long-run incremental cost of terminating traffic by a provider using a hypothetical network., to a provider using the most efficient available technology. of terminating traffic received from other providers on a LATA-wide basis.

CALIFORNIA COMPARATIVE CHECKLIST		
COMPETITIVE CHECKLIST	**CALIFORNIA**	**SOURCES**
Section 271(c)(2)(B) Competitive checklist.-- **Access or interconnection provided or generally offered by a Bell operating company to other telecommunications carriers meets the requirements of this subparagraph if such access and interconnection includes each of the following:**		

CALIFORNIA COMPARATIVE CHECKLIST		
COMPETITIVE CHECKLIST	**CALIFORNIA**	**SOURCES**
Interconnection: (i) Interconnection at any technically feasible point within the carrier's network; that is at least equal in quality to that provided by the local exchange carrier to itself or any other party; on rates, terms, and conditions that are just, reasonable, and nondiscriminatory; and at rates that are based on the cost of providing the interconnection or network element including a reasonable profit.	The CPUC requires that "LECs shall negotiate interconnection arrangements," reviewed by the CPUC for unfair discriminatory or otherwise unreasonable terms, "which shall contain mutually agreeable points of interconnection." Compensation provisions should "appropriately reflect the usage of facilities." The CPUC has prescribed a set of "preferred outcomes" for negotiations, from which parties may deviate if they find it mutually agreeable and explain why their terms should be adopted. The preferred outcome for interconnection is a single, mutually agreed upon Point of Interconnection. In every LATA where a carrier originates traffic and interconnects with another carrier, the CPUC requires that "it must interconnect with all of the other carriers' access tand[e]ms." PacBell has agreed to interconnect with MFS at three Points of Interconnection in California. PacBell has agreed to interconnect with TCG at all tandems within each LATA where TCG operates.	CPUC D.95-12-056, at 14-16, 21, 36, App. A, App. C, at 13-16 (Dec. 20, 1995) (Rule 7(G) & 7(J)); MFS/Pacific Co-Carrier Agreement at 13 (Nov. 17, 1995); TCG/Pacific Interconnection Agreement at 5 (Jan. 17, 1995).

CALIFORNIA COMPARATIVE CHECKLIST		
COMPETITIVE CHECKLIST	**CALIFORNIA**	**SOURCES**
Unbundled Network Access: (ii) Nondiscriminatory access to network elements unbundled at any technically feasible point (but economic feasibility is not a justification for failure to unbundle); provided in a manner that allows requesting carriers to combine such elements; on rates, terms, and conditions that are just, reasonable, and nondiscriminatory; and at cost-based rates that may include a reasonable profit.	Since 1989, the CPUC has "adopted the[] concepts in principle" that "unbundling and nondiscriminatory access to monopoly utility services are important tools in ensuring that the local exchange carriers do not favor their own competitive services at the expense of either monopoly ratepayers or competitors." The CPUC has instituted a formal rulemaking proceeding in which it noted that the following six network components should be considered for unbundled by 1/1/97 as part of the OANAD proceeding: (1) subscriber loops; (2) line side ports; (3) signaling links; (4) signal transfer points; (5) service control points; and (6) dedicated channel network access connections. In the OANAD proceeding, the CPUC has adopted cost methodology principles and a list of basic network functions for which cost studies are to be performed. Hearings will be held in the summer of 1996, at which the CPUC will determine reasonable unbundling consistent with the Act's requirements for the six network components. Future unbundling through bona fide requests will allow further network elements to be unbundled.	Re Alternative Regulatory Frameworks for Local Exchange Carriers, 33 CPUC 2d 43, 120-21 (1989) (D.89-10-031); CPUC R.95-04-043, App. A at 12 (Apr. 26, 1995) (instituting formal rulemaking); D.95-12-016 at 7 (Dec. 6, 1995).

CALIFORNIA COMPARATIVE CHECKLIST		
COMPETITIVE CHECKLIST	**CALIFORNIA**	**SOURCES**
Nondiscriminatory (Equal) Access to Outside Plant: (iii) Nondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by the Bell operating company at just and reasonable rates.	Because rules cannot cover every situation that may arise, the CPUC has ruled that "LECs and CLCs may mutually negotiate access to and charges for rights of way, conduits, pole attachments, and building entrance facilities on a nondiscriminatory basis." The CPUC noted that if the parties cannot reach agreement on rights of way issues, it would "direct them to file complaints before [the CPUC] for prompt resolution." This access is already available. PacBell leases conduits which it owns or controls.	CPUC D.96-02-072 at 51, App. E at 18 (Feb. 23, 1996) (Rule 12).
Unbundled Local Loop: (iv) Local loop transmission from the central office to the customer's premises. unbundled from local switching or other services.	PacBell has agreed to provide MFS with unbundled local loop transport, under the name "links." The agreement provides for up to 30,000 links during calendar year 1996. Links do not include ports. CPUC approved the agreement, emphasizing that unbundled local loops should be available on a nondiscriminatory basis without anticompetitive practices. The CPUC specifically reserved the right to modify the price to ensure "that this resource is not priced anticompetitively." Subscriber loops and line side ports are among the components expected to be unbundled this summer.	MFS/Pacific Co-Carrier Agreement at 5-6, 36-43 (Nov. 17, 1995); CPUC Res. T-15824 at 9 (Jan. 17, 1996).